

# MAINE STATE LEGISLATURE

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March 20, 1968

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FACTS:

Ransom Kelley of Boothbay Harbor operates deep sea fishing excursion boats. These excursions are primarily recreational. Although the customers do the actual fishing, Mr. Kelley's employees help land the fish.

Much of the time spent on these trips is outside the three-mile limit of the territorial jurisdiction of the United States and the State of Maine.

QUESTION #1:

Are Mr. Kelley's employees exempt from minimum wage coverage under 26 M.R.S.A. § 663 para. 3 & 3-G?

ANSWER #1:

No.

OPINION #1:

26 M.R.S.A. § 663 para. 3 reads as follows:

"Employee. 'Employee,' any individual employed or permitted to work by an employer but the following individuals shall be exempt from this subchapter except as provided in section 662:"

26 M.R.S.A. § 663 para. 3-G reads as follows:

"Any individual employed in the catching, taking, harvesting, cultivating or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds or other aquatic forms of animal and vegetable life . . ."

It is clear from a reading of this section of the minimum wage law that the exemption referred to in paragraphs 3 and 3-G pertains to the "fishing industry". Mr. Kelley's boats are not to be considered as engaged in the "fishing industry." Therefore the subject exemption would not apply.

QUESTION #2:

Should that portion of the work performed outside the three-mile limit be counted as done outside the jurisdiction of the State of Maine?

ANSWER #2:

No.

OPINION #2:

Until a vessel comes under the jurisdiction of another state or nation the laws of the State to which she belongs follow her. See McDonald v. Mallory, 77 N. Y. 546.

Since Mr. Kelley's boat does not enter another jurisdiction, the laws of the State of Maine apply to her in this situation beyond the three-mile limit.

WEW, Jr./mf

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